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John N. Gross

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10/11/2006

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EXAMINER

ROSEN, NICHOLAS D

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/770,937	Applicant(s) GROSS, JOHN N.	
	Examiner Nicholas D. Rosen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner. *& approved by Draftsperson*
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :6/14/2004, and 1/26/2005, and 5/13/2005, and 6/16/2006.

DETAILED ACTION

Claims 1-36 have been examined.

Claim Objections

Claim 26 is objected to because of the following informalities: In the second line of claim 26, "concering" should be "concerning". Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 35 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/770,767. Although the conflicting claims are not identical, they are not patentably

distinct from each other because they describe essentially the same method, phrased slightly differently.

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 10/770,767. Although the conflicting claims are not identical, they are not patentably distinct from each other because they describe essentially the same method, phrased slightly differently.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 36 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10, 5, and 17 of copending Application No. 10/771,094 in view of official notice. Claim 36 of the instant application is largely parallel to claim 10 of the '094 application, although claim 10 of the '094 application does not recite notifying the subscriber or shipping the media item; however, claims 5 and 17 of the '094 application recite notifying the subscriber, and official notice is taken that it is well known to ship items to subscribers, making this an obvious way to get the items to the subscribers, without which the method would have little point.

This is a provisional obviousness-type double patenting rejection.

Claims 1, 3, 4, 9, 13, 15, 16, 17, 19, 28, 29, 32, 33, and 34 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 7, 8, 9, 10, 11, 13, 15, 16, 17, and 18 of copending Application No. 10/770,804. Although the conflicting claims are not identical, they are

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not patentably distinct from each other because they are essentially parallel, claim 1 of the '804 application reciting a system parallel to the method of claim 1 of the instant application. Likewise, claim 3 of the instant application is closely parallel to claim 3 of the '804 application; claim 4 of the instant application is closely parallel to claim 4 of the '804 application; claim 9 of the instant application is parallel to claim 8 of the '804 application; claim 13 of the instant application is parallel to claim 7 of the '804 application; claim 15 of the instant application is closely parallel to claim 9 of the '804 application; claim 16 of the instant application is closely parallel to claim 10 of the '804 application; claim 17 of the instant application is closely parallel to claim 11 of the '804 application; claim 19 of the instant application is closely parallel to claim 13 of the '804 application; claim 28 of the instant application is parallel to claim 15 of the '804 application; claim 29 of the instant application is parallel to claim 16 of the '804 application; claim 32 of the instant application is met by claims 17 or 18 of the '804 application; claim 33 of the instant application is parallel to claim 17 of the '804 application; and claim 34 of the instant application is closely parallel to claim 18 of the '804 application.

Claims 2, 5-8, 10-12, 14, 18, 20-27, 30, and 31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being dependent on rejected claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Applicant is advised that should claim 11 be found allowable, claim 12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). In this case, claims 11 and 12 appear to be entirely identical.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-34

Claims 1, 2, 3, 4, 7, 8, 15, 17, 18, 19, 22, 23, 24, 28, 29, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings et al. (U.S. Patent 6,584,450) in view of Ostrom ("With Newer Releases, Netflix Users Can Anticipate a 'Very Long Wait'"). As per claim 1, Hastings discloses a method of distributing playable media items over an electronic network from a first computer maintained by a provider of a media distribution service to a device used by a subscriber of such service, the playable media items corresponding to machine readable media readable by a subscriber machine player, the method comprising the steps of: (a) setting up a subscriber delivery queue for the subscriber to be controlled by the first computer, said

subscriber delivery queue consisting of an ordered list of one or more playable media items to be delivered to the subscriber in a subscriber-defined priority, wherein said subscriber delivery queue is set up at least in part in response to item selection directions provided by the subscriber over the network (column 4, lines 14-34; column 9, line 47, through column 10, line 14; Figure 7; column 11, line 49, through column 13, line 53); (b) setting up queue replenishment rules for the subscriber delivery queue; and (c) monitoring said subscriber delivery queue in accordance with said queue replenishment rules (ibid.). Hastings does not expressly disclose a second computer used by the subscriber, but the disclosure of Internet communication and a web browser (e.g., column 9, lines 47-62) implies such a second computer. Selecting more movies in accordance with the queue replenishment rules implies modifying the subscriber delivery queue to generate a new ordered list of one or more playable media items (e.g., to include a new release with the subscriber's favorite stars, which is adding an additional playable media item), Hastings does not disclose (d) modifying the subscriber delivery queue to generate a new ordered list of one or more playable media items in response to the subscriber confirming that said additional playable media item can be included in the subscriber delivery queue. However, Ostrom teaches modifying the subscriber queue based on a confirmation from the subscriber to assure that new releases be included at the top (paragraph beginning, "Selecting from Nearly 12,000 Titles"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do this, for the stated

advantage of ensuring subscribers that they will receive new releases (or other preferred movies, presumably).

As per claim 2, there is no suggestion in Hastings that the subscriber needs to be connected while the computer performs step (c).

As per claim 3, Ostrom teaches subscribers reordering their delivery sequences, implying such an ordered list from a first item to a last (ibid.).

As per claim 4, Ostrom teaches the additional playable media item being inserted in a subscriber-defined delivery order position (ibid.).

As per claim 7, Hastings discloses delivering the new playable media items to the subscriber (ibid.).

As per claim 8, Hastings does not expressly disclose that step (d) is performed automatically with sending a further notification to the subscriber, but there is no disclosure that a further notification to the subscriber is sent, and the teaching of Ostrom that most users don't remember which movies are on the top of their lists anyway (bottom paragraph on first page) implies that subscribers are not notified.

As per claim 15, Hastings discloses a trigger event to determine delivery of an item to a subscriber (column 5, lines 1-14; column 14, lines 1-17), which implies modifying the subscriber delivery queue (at least by deleting the item now delivered).

As per claim 17, Hastings discloses a determination by an item recommendation system that an additional playable media item should be added to the subscriber delivery queue as a recommended playable item (ibid., as applied to claim 1), implying

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a trigger event associated with such a determination (e.g., when a new movie with a subscriber's favorite actor is released).

As per claim 18, Ostrom discloses that the recommended playable media item can be designated as the next to be delivered from the subscriber delivery queue (ibid., as applied to claim 1).

As per claim 19, Hastings discloses that the additional playable media item is determined by a recommender system of the media distribution service which automatically identifies items of interest based on a subscriber preference profile (ibid., as applied to claim 1).

As per claim 22, Hastings discloses that queue replenishment control rules for the subscriber delivery queue can be set up automatically for the subscriber based on an evaluation of item preferences determined for the subscriber (column 9, line 63, through column 10, line 14).

As per claim 23, Hastings discloses that queue replenishment control rules for the subscriber delivery queue can be set up by the subscriber (column 9, line 63, through column 10, line 14).

As per claim 24, Hastings does not expressly describe moving an item from the subscriber to a shipping queue when the subscriber is eligible to receive an additional item, but does disclose shipping items to subscribers, and, once shipped, the items would presumably not remain on the queue of items to be delivered, so defining the record where the items would then be listed as a shipping queue is trivial.

As per claim 28, Hastings discloses that the media distribution service distributes movies to subscribers (ibid.)

As per claim 29, Hastings discloses that the media distribution service is an Internet based movie rental service, and the playable media items are recordings of movies that are mailed to subscribers (ibid., and column 10, lines 29-41).

As per claim 30, Hastings discloses that the subscriber can have a predetermined number of recordings checked out, by implication for a flat fee (columns 5 and 6, "MAX OUT").

As per claim 31, Hastings discloses that a subscriber is charged an additional fee when an additional playable media item is distributed (column 6, lines 14-29).

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 3 above, and further in view of official notice. Hastings does not disclose automatically inserting an additional item as the first or last item to be delivered, but official notice is taken that it is well known to add items to the top or bottom of a list, according to circumstances. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, either way, for the obvious advantage of making an especially desired item available as soon as possible (as per claim 5) or enabling higher-priority items to be delivered first (as per claim 6).

Claims 9, 10, 11, 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 1 above, and further in view of official notice. As per claim 9, Hastings does not disclose sending a notification to the

subscriber after step (c) when the queue replenishment control rules determine that the subscriber delivery queue should be modified, but official notice is taken that it is well known to send customers notifications of pending deliveries, modifications to their orders, etc. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to send such a notification, for such obvious advantages as assuring a subscriber of the imminent shipment of desired items, or enabling a subscriber to modify his preference list to receive a more desired item (as set forth in Ostrom).

As per claim 10, official notice is taken that sending notification that something should be done, or has been done, does not necessarily trigger doing it. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the notification not to automatically trigger a modification of the subscriber delivery queue, for the obvious advantage of not changing the queue of whose current state notification had just been sent.

As per claims 11 and 12, Hastings discloses modifying the subscriber delivery queue in accordance with queue replenishment rules (*ibid.*, as applied to claim 1 above), and if one is modifying the queue, and sending a notification, sending a notification of how one is modifying the queue is trivial. (This particular information could be considered non-functional descriptive material in any case.)

As per claim 13, Hastings does not disclose that the subscriber delivery queue is automatically modified in accordance with the queue replenishment rules after a predefined time delay, but official notice is taken that it is well known to take action after

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a predefined time delay. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the subscriber delivery queue to be automatically modified in accordance with the queue replenishment rules after a predefined time delay, for at least the obvious advantage of giving someone (the subscriber, or an administrator), time to make any manual modification which seem indicated.

As per claim 14, Hastings does not disclose that the notification provides directions for the subscriber to accept and/or modify said additional playable media item, but Ostrom, as noted, discloses the subscriber modifying (or, by default, accepting) a list, and official notice is taken that it is well known to provide directions. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide such directions, for the obvious advantage of enabling the subscriber to readily modify (or accept) the queue according to his wishes.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 15 above, and further in view of official notice. Hastings does not disclose that the trigger event is associated with a quantity of playable media items remaining in said subscriber delivery queue, but a trigger event could be associated with a quantity of playable media items remaining in the delivery queue in several ways (e.g., the queue might have become too large or too small), and official notice is taken that it is well known at least to add additional items to a queue which has become too small. Hence, it would have been obvious to one of ordinary skill in the art

of electronic commerce at the time of applicant's invention for the trigger event to be associated with a quantity of playable media items remaining in said subscriber delivery queue, for the obvious advantage of assuring an adequate quantity of playable media items in the queue.

Claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 19 above, and further in view of official notice. Hastings does not disclose processing an item rating survey provided by the subscriber to determine a subscriber item preference profile suitable for use by the recommender system, but official notice is taken that it is well known to process item rating surveys to determine preference profiles for use in recommending items. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of recommending items likely to be of interest to subscribers, and thus making subscriptions more attractive, and collecting corresponding fees.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 1 above, and further in view of official notice. As per claim 21, Hastings does not disclose that the additional playable media item is randomly selected from a list of playable media items associated with a category selected by the user, although Hastings discloses the user selecting a category (column 8, lines 6-65). However, official notice is taken that it is well known to select an item at random from a list. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of

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providing a recommended item that would have had to be chosen somehow, perhaps in the absence of any particular known reason to choose one item from a category rather than another.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 1 above, and further in view of official notice. Hastings does not disclose receiving subscriber feedback concerning selection of said additional playable media item, but official notice is taken that it is well known to receive feedback from subscribers or other customers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so for the obvious advantage of recommending items likely to be of interest to subscribers, and thus making subscriptions more attractive, and collecting corresponding fees.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 1 above, and further in view of official notice. Hastings does not disclose that a subscriber is charged a fee when an additional playable media item is moved to the subscriber delivery queue, but official notice is taken that it is well known to charge fees for various services or at various steps of a process. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of profiting from such fees.

Claims 32, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings and Ostrom as applied to claim 28 above, and further in

view of official notice. Hastings does not disclose that the movies are distributed electronically to the subscribers, or that the delivery is by satellite transmission or broadband Internet-based connection, but official notice is taken that it is well known to distribute movies, electronically, by satellite transmission, or by broadband Internet-based connection. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do so, for the obvious advantage of getting movies to customers without the delays of mailing or physical delivery.

Claim 35

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings et al. (U.S. Patent 6,584,450) in view of Ostrom ("With Newer Releases, Netflix Users Can Anticipate a 'Very Long Wait'"). Hastings discloses a method of distributing playable media items comprising the steps of: (a) setting up a subscriber selection queue for the subscriber to be controlled by the first computer, said subscriber selection queue consisting of a list of one or more playable media items; wherein said subscriber selection queue is set up at least in part in response to item selection directions provided by the subscriber; (b) setting up queue replenishment control rules for the subscriber selection queue; and (c) monitoring said subscriber selection queue in accordance with the queue replenishment control rules to determine if changes should be made to the subscriber selection queue (column 4, lines 14-34; column 9, line 47, through column 10, line 14). Hastings discloses modifying the subscriber selection queue to generate a new list of one or more playable media items (ibid., the generation

of a new list being implied by the release of new movies with the subscriber's favorite actor or other specified characteristics), but Hastings does not disclose (d) modifying the subscriber selection queue to generate a new list of one or more playable media items based on a confirmation from the subscriber. However, Ostrom teaches modifying the subscriber queue based on a confirmation from the subscriber (paragraph beginning, "Selecting from Nearly 12,000 Titles"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to do this, for the stated advantage of ensuring subscribers that they will receive new releases (or other preferred movies, presumably).

Claim 36

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings et al. (U.S. Patent 6,584,450) in view of official notice. Hastings discloses a method of distributing playable media items over an electronic network to a subscriber of a media rental service, the method comprising the steps of: (a) receiving subscriber preference data for the subscriber during a first data session network (column 4, lines 14-34; column 9, line 47, through column 10, line 14); (b) generating a subscriber profile for the subscriber suitable for use by a recommender system; and (c) processing said subscriber profile using said recommender system to identify a media item that is likely to be of interest to the subscriber; wherein said media item can be automatically shipped to the subscriber after said first data session, and without requiring a second data session by the subscriber with said media rental service (ibid.; and Figure 7; column 12, lines 21-38). Hastings discloses various options for mailing or shipping the

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media item to the subscriber, and shipping the item to the subscriber (column 4, lines 22-34), but does not disclose that receiving subscriber preference data includes receiving notification and shipment options, and does not disclose notifying the subscriber. However, official notice is taken that it is well known to receive notification and shipping options (e.g., a mailing address to which an item is to be shipped, whether an item is to be shipped by regular or high-priority delivery, a telephone number or email to which notification is to be sent), and perform notification and/or shipping in accordance with the received option information. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to receive notification and shipment options perform notification and/or shipping in accordance therewith, for such obvious advantages of arranging for shipment to the proper address, notification to assure the subscriber that the media item was on its way, shipment with the degree of priority that the subscriber wanted and was willing to pay for, etc.

Statement Regarding IDS

Examiner has considered the documents made of record on Applicant's Information Disclosure Statements. Regarding the IDS of June 16, 2006, Examiner wishes to note that U.S. Patent 6,065,042 appears to be the invention of Reimer et al., not just Reimer, that U.S. Patent 6,236,985 appears to be the invention of Aggarwal et al., not just Aggarwal, and that the applicant for EP 0900424 A1 appears to be Egghead.com, Inc., rather than Onsale Inc.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sartain et al. (U.S. Patent 6,124,854) disclose an interactive video system. Hastings et al. (U.S. Patent 7,024,381) disclose an approach for renting items to customers. Routtenberg et al. (U.S. Patent Application Publication 2002/0049717) disclose a digital content distribution system and method. Cruz-Rivera et al. (U.S. Patent Application Publication 2003/0066093) disclose methods and apparatus for circular broadcasting an audio and video signal (note paragraphs 55-59 in particular). Connelly (U.S. Patent Application Publication 2003/0083951) discloses a system and method for providing an ordered listing of available, currently broadcasting, and/or acquired products based on predicted relevance.

Yamanaka (Japanese Published Patent Application 2000-36781-A) discloses a copyright management device, work distribution device, and work distribution/reception service.

The anonymous article, "Make Your Wish List and Check It Twice," discloses the Netflix system, gift certificates in particular.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

October 2, 2006